

Remarks

By telephone, the Examiner has informed the Applicant that although the amendments and remarks to the Office Action of April 23, 2004 were timely filed on October 21, 2004, the two-page Affidavit of inventor Dr. Klaus-Dieter Vorlop was not properly entered by the United States Patent and Trademark Office in the electronic file wrapper system. Accordingly, Dr. Vorlop's Affidavit was unavailable to the Examiner in generating the most recent Office Action of February 7, 2005.

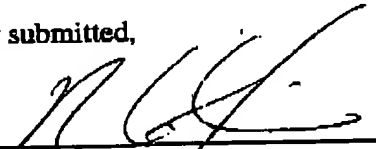
Submitted herewith are the two pages comprising Dr. Vorlop's Affidavit.

In the absence of the Affidavit, the final Office Action surmised that Applicant was attempting to establish a case of non-obviousness based on unexpected results. Dr. Vorlop's Affidavit is offered for the purpose of establishing that the Charmot and Venkatraman references relied upon in both Office Actions fail to establish a necessary premise for the rejections argued in both of those actions; that phase change as claimed in the pending claims occurs when the materials in those references are subject to procedures as disclosed in those references. This is not the case.

Dr. Vorlop actually attempted to achieve phase separation as claimed using the materials and processes described in those references, as established in paragraph six of the Affidavit. It is not merely Dr. Vorlop's opinion. Thus the Affidavit establishes a factual record that the prima facie case argued in the earlier Office Actions fails.

The Applicant regrets that the Examiner has generated a Final Office Action without the benefit of the Affidavit being presented to her. However, because the absence of the Affidavit was a clerical error on behalf of the patent office, and no fault of the Applicants, Applicants respectfully request a Supplemental or Revised Final Office Action withdrawing the rejections and allowing the presently pending claims.

Respectfully submitted,



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